**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**C-24 12 OF 2006**

1. Kashmir Lal Thakaral,
2. Sri Kishan Lal Thakaral,
   Both sons of Sri Dewan Chandra Thakral,
   C/o M/s Thakaral Enterprises in Front of
   Anupam Cinema Kichha,
   District- Udham Singh Nagar. .....Petitioners.

Versus

1. Mohd. Asalam, S/o Sri Ajit Ahmad,
   R/o Kasba Kichha, Tehsil – Kichha,
   District – Udham Singh Nagar.
2. District & Session Judge, Nainital. .....Respondents.

**Hon'ble Rajesh Tandon, J.**

Heard Sri M.S. Bisht holding the brief of Sri B.S. Khanka, Advocate for the petitioner and Sri J.C. Belwal, Standing Counsel for the respondent no. 1.

By the present writ petition, the petitioner has prayed for transfer of the SCC Case No. 11 of 1999 from district Nainital to District Udham Singh Nagar due to creation of new district.

Briefly stated, a Suit No. 16 of 2002 was filed by the plaintiff/respondent praying for eviction of the defendant/applicant from the premises situate at Nainital Road Kichha, Nainital along with arrears of rent, damages and eviction from the shop in question, suit is pending before the J.S.C.C. Nainital. The suit was decreed on 10th August, 1999. Against which a revision was preferred being Revision No. 11

of 1999. On an application filed for recalling of the order dated 17th February, 2000 passed ex parte on the ground that on 7th February, 2000, he was away in a marriage and he was not aware of the date. The said matter came up in Writ Petition No. 1846 of 2001 (ms), the writ petition was allowed on 6th October, 2005 with a direction to decide the revision on merits.

It appears that the application was filed for transferring of the case before the District Judge, Nainital for transferring of the case before the District Judge, Udham Singh Nagar. The said application was rejected on 16th May, 2006 on the ground that court has no jurisdiction, hence the present transfer petition has been filed.

Both the parties have agreed that since the dispute relates to Kichha, District Udham Singh Nagar, therefore, let the case be transferred to the court of District Judge, Udham Singh Nagar for deciding the same on merits.

Considering the aforesaid prayer of both the parties, the S.C.C. Case No. 11 of 1999 is transferred to the Court of District Judge Udham Singh Nagar for hearing on merits.

Both the parties have agreed that the court concerned may be directed to fix 7th August, 2006 for hearing of case.

Accordingly, 7th August, 2006 is fixed for appearance of the parties in SCC Case No. 11 of 1999. Thereafter, the District Judge shall fix the date for hearing in accordance with his diary.

Transfer application is allowed. No order as to costs.

**(Rajesh Tandon, J.)**

07.07.2006
*Rathour*